IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.2669 OF 2007

IN

APPEAL NO.258 OF 2007

IN

NOTICE OF MOTION NO.1568 OF 2004

IN

SUIT NO.1455 OF 2004

...

Mahendra Jayantilal Vora
and ors. ...Appellants

v/s.

Aditya Enterprises & ors. ...Respondents

...

Mr.S.N.Shah with Mr.Y.R.Shah for the Appellants.

Mr.A.H.Delhiwala i/b Kanga & Co. for Respondents Nos.1 to 3.

None for Respondents Nos.4 to 15.

...

CORAM: D.K.DESHMUKH &
J.H.BHATIA, JJ.
DATED: 24TH OCTOBER, 2007

P.C.:

1. This Notice of Motion is taken out by the original Plaintiffs/Appellants for an order directing the Respondents Nos.5 to 15 not to create any third party rights.

2. So far as original Defendants Nos.1 to 3 are concerned, they have already made a statement which has been recorded by the trial court that pending hearing and final disposal of the suit, the Defendants Nos. 1 to 3 will not create any further third party rights interest and also will not carry out any further construction in the suit property without seeking leave of the court. That statement has been accepted. Some flats have already been sold by the Respondents Nos.1 to 3 to Respondents Nos.5 to 15, and therefore, the Appellant has taken out this

Notice of Motion for an order restraining them from creating third party rights.

3. Respondents Nos.5 to 15 have been served. The learned Counsel for the Appellants undertakes to file affidavit of service within one week from today. Respondents Nos.5 to 15 are not appearing. They have not filed any reply. In the absence of any affidavit, accepting the averments made in the affidavit filed in support of the Notice of Motion at their face value, motion is granted in terms of prayer clause (a). Motion disposed of.

(D.K.DESHMUKH, J.)

(J.H.BHATIA, J.)